

REMARKS

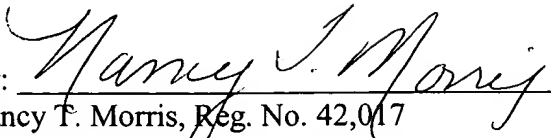
Rejection of Claims Under 35 U.S.C. §112

The Office Action rejects claims 15-42 and 54 as indefinite. Specifically, the Office Action states that the basis for the differentiation of "growing" or "non-growing" cultures of bacteria is indefinite in that it is unclear what constitutes "reduced affect." Applicants respectfully disagree. The claimed composition comprises one or more non-virulent bacteria produced by a process including: mutating a bacteria, culturing the bacteria in the presence of an antimicrobial agent at a concentration that kills growing but has reduced affect on or does not kill non-growing bacteria. Surviving bacteria are then selected and screened for virulence. One skilled in the art would recognize that the process does not depend upon the survival of any specific number or percentage of non-growing bacteria. The step of culturing the mutated bacteria in the presence of an antimicrobial agent enriches for non-growing bacteria. Even a single surviving bacteria can then be recovered, tested and selected for non-virulence. As such, any level of "reduced" affect is acceptable for the instant invention. Applicants therefore respectfully request withdrawal of the rejection.

In view of the foregoing amendment and remarks, it is respectfully submitted that the claims are now in condition for allowance and eventual issuance. Such action is respectfully requested. Should the Examiner have any further questions or comments which need be addressed in order to obtain allowance, please contact the undersigned attorney at the number listed below.

Acknowledgement of receipt is respectfully requested.

Respectfully submitted,

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